IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2428 OF 2005

Ananta Govind Patil ... Applicant

versus

The State of Maharashtra ... Respondent

...

Mr.R.D. Suryawanshi, for the Applicant.

Mr.A.S. Gadkari, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

25th April 2005

P.C.:

. Later on, Mr. Suryawanshi mentioned the matter and pointed out that at the relevant time, he was held in some other Court. In view of the said reason, the order dismissing application in default is recalled. Matter is heard on merits.

. Heard Counsel for the parties. Perused the record. I see no reason to depart from the

conclusion reached by the Court below in rejecting the application for bail preferred by the present Applicant. There is material to indicate the complicity of the Applicant. Four witnesses have named the Applicant and attributed role to the Applicant not only in the first incident of assault, but also for the later incident of abducting the deceased. At this stage, the prosecution case will have to be accepted as it is and so understood, having regard to the seriousness of the offence, not a case for bail.

. Counsel for the Applicant, however, contends that the Applicant is entitled for bail on parity along with co-accused Sanjay Patil. This submission clearly overlooks the reason which weighed with the lower Court while releasing co-accused Sanjay Patil on bail. The Court has found that the presence of that applicant was not stated in the first statement as recorded but he has been implicated on the basis of the second statement. The Court has, therefore, doubted the prosecution version insofar as that applicant is concerned. That

reason does not apply to the present Applicant, who has been named consistently by all the witnesses. Counsel for the Applicant, however, relies on the observation made in second last paragraph of the order passed in the case of the co-accused to contend that these are general observations and would apply even to the case of the Applicant. Indeed, the lower Court has observed that no specific role has been attributed to the co-accused Sanjay Patil. However, this opinion will have to be considered in the context of the earlier finding recorded by the lower Court, essentially on the basis of which bail has been granted to the co-accused Sanjay Patil. Needless to observe that even if the accused has not actually assaulted the victim, but if there is evidence on record to suggest that he was member of unlawful assembly who committed the offence in question, such accused will be vicariously liable along with the other members of the unlawful assembly, who have actually assaulted.

. Taking overall view of the matter, in my opinion, this is not a case for bail. Hence,

rejected.

. As prayer for bail is rejected, the Sessions Judge, Thane, is directed to assign the case to Fast Track Court to ensure early disposal of the trial. In case the trial cannot be assigned to Fast Track Court for any reason, the trial Judge should ensure that the trial is disposed of expeditiously, preferably within 9 months from the receipt of writ of this Court.

(A.M.KHANWILKAR,J.)